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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,613	09/10/2003	John Francois Brumlik	BRUMLIK.001DV1	5556
20995	7590	12/14/2004	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			CHAUDHRY, SAEED T	
		ART UNIT	PAPER NUMBER	
			1746	

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/659,613	BRUMLIK, JOHN FRANCOIS
	Examiner Saeed T Chaudhry	Art Unit 1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 30 September 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-30 and 36-40 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-30 and 36-40 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

Applicant's amendments and remarks filed September 30, 2004 have been acknowledged by the examiner and entered. Claims 31-35 have been canceled and claims 1-30 and 36-40 are pending in this application for consideration.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in Graham v. John Deere Co., 148 USPQ 459, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or unobviousness.

**Claims 1-14, 16-30 and 36-40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Martin et al or Anthony in view of Samad.**

Martin et al (1,099,262) disclose a method for cleaning a location such as typewriters letter presses or other writing and printing material by applying a brush by which the cleaning can be done easily and thoroughly. Martin et al provide a brush comprised of a body 10, a bristled cleaning surface wherein the bristles extend perpendicularly from the longitudinal axis of the body , an outlet valve 13 and a pressure release valve 25. The outlet and pressure release valves functions simultaneously. The rear or butt end of the handle 10 is closed by a lug 23 having a central air port rod carries a valve 25 which seats over the air port when the rod is in retracted position to prevent leakage of the cleaning liquid from the butt end of the handle. When the rod is pushed into open the valve 13 the valve 25 us unseated and air is allowed to enter the

hollow of the handle containing the supply of cleaning liquid, and the latter is freely discharged. The cap is removable from the handle 10, in order to be filled with cleaning liquid (see Figures 1-2 and lines 9-106).

Anthony (894,359) disclose a method for sweeping a surface with a broom. The broom comprising a handle body 12 having a reservoir therein, a removable cap 15 having a pressure release opening therein, a separate base 21, 24 having an exit orifice thereon, a rod 29, a first sealing member 28 defining with the exit orifice an outlet valve, a second sealing member 16 defining with the pressure release opening a pressure release valve for sealing the pressure release opening, a bristled cleaning surface 5 (wherein "at least a portion of the bristles extend generally perpendicular" to the longitudinal axis of the body, i.e. viewing Fig. 1, the portion of the bristles immediately adjacent to the outlet valve (the top curved portion of the bristles extends "generally perpendicular" to the longitudinal axis of the device) and the actuator 17. The pressure release opening and exit valve 28 open simultaneously, when the rod is pressed to dispense the cleaning liquid.

Martin et al and Anthony fail to disclose a disinfectant solution and to clean a toilet.

Samad (5,984,555) disclose a method and apparatus for cleaning a toilet bowl by contacting brush having bristles and supplying cleaning liquid through a syringe into the brush. The toilet brush comprising: an elongate handle; a brush head connected to a first end or said elongate handle for cleaning an interior surface of a bowl of a toilet; means for dispensing bleach to said first brush head to enhance cleaning of the interior surface of the bowl comprising said elongate handle being a tube having a curved lower portion with a plurality of holes there through to said first brush head, said tubular wire frame having a plurality of apertures there

through, and said brush head is fluidly connected thereto, and a syringe dispenser fluidly connected to a generally straight upper portion of said tube so that when said syringe dispenser is manually operated the bleach will travel through said tube and out of said holes in said curved lower portion into said brush head (see Figs. 5, 5a and claims). The reference fails to disclose exit and pressure valves, displacing the sealing member by displacing a rod.

It would have been obvious at the time applicant invented the claimed process to use the teaching of Samad of cleaning a toilet with a brush and simultaneously provide a cleaning liquid to the surface of the toilet bowl into the processes of Martin et al and Anthony for the purpose of preventing the cleaning liquid from spilling on the other surface since exit valve and pressure release vale would prevent leakage. Furthermore, it would have been obvious at the time applicant invented the claimed process to incorporate an exit valve and a pressure release valve as disclosed by Martin et al or Anthony into the apparatus and process of Samad to enhance the controllability of the cleaning liquid in the reservoir. The exit valve and pressure release valve would reduce undesirable leakage of the cleaning liquid from the reservoir. Furthermore, Samad discloses to use bleach for cleaning, sanitizing and disinfecting the toilet. Therefore, one of ordinary skill in the art would use bleach for sanitizing and disinfecting other surfaces such as counter surface, tile surface sink surface or a shower with a cleaning device, which would provide spillage protection.

**Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Samad in view of Martin et al or Anthony as applied to claim 13 above, and further in view of Cansler et al.**

Samad, Martin et al and Anthony were discussed supra. However, the reference fails to disclose that bristles comprised of a nylon, polypropylene, polyester or plastic.

Cansler et al (5,195,546) disclose a method disclose brush made by synthetic bristles of nylon or polyester (see abstract).

It would have been obvious at the time applicant invented the claimed process to utilize nylon or polyester as disclosed by Cansler et al into the process of Martin et al., Anthony and Samad because nylon or polyester are known for durability and long lasting cleaning effect.

### **Response to Applicant's Arguments**

Applicant argued that one of ordinary skill in the art would seek to modify the Samad dual toilet brush, which is designed for cleaning both the interior surface of a toilet bowl and the overhanging rim at the same time, to include a body having a first orifice positioned adjacent to a distal end of the body and a second orifice positioned on the body for regulating pressure within the internal reservoir or to modify the Samad toilet brush to include an exit orifice at a distal end of an internal reservoir and a hole provided adjacent a proximal end of the internal reservoir for regulating pressure within the internal reservoir.

This argument is not persuasive because regulating pressure within the reservoir would provide control on the spillage and leakage of the cleaning and sanitizing solution on the other surfaces. Therefore, one would modify the Samad teaching to include these enhancements, which would provide spillage and leakage protection.

Applicant argued that there is simply no teaching or motivation in any of the references that the structures disclosed in Martin and Anthony, specifically a typewriter cleaner and a dust laying broom, can be incorporated into the device disclosed in Samad. Neither Martin nor Anthony mention any applicability of their devices to cleaning a toilet.

This argument is unpersuasive because Martin and Anthony are in the same technical field of endeavor, i.e. cleaning with a brush and simultaneously proving a cleaning solution to the surface. Therefore, one would utilize the teaching of Martin or Anthony in the arrangement of Samad for controllability of the cleaning solution in the body. Examiner is not implementing that the Martin or Anthony's device is used for cleaning toilet. The examiner position is that the teaching of Martin and Anthony is incorporated into Samad process for cleaning toilet.

Applicant argued that nowhere does Samad teach or suggest the need or desirability of preventing spilling or leakage, as suggested by the examiner, let alone that such a problem could be overcome by looking to art teaching typewriter cleaners or dust laying brooms.

This argument is not persuasive because for a finding of obviousness within the meaning of 103, the references themselves need not explicitly suggest the combination of their features where all the references pertain to the same field of endeavor. The test is what the combined teachings of the references, taken collectively would have suggested to one of ordinary skill in the art (see Cable elec. Prods., Inc. V. Genmark, Inc., 770 F.2d 1015, 1025, 226 USPQ 881, 886-87 (Fed. Cir. 1985 and In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981)).

The applicant argued that it is improper to combine the four prior art references asserted by the Examiner.

This argument is unpersuasive because the number of references does not have bearing on the propriety of the rejection; theoretically such could be indefinite (see Ex parte Fine, 1927 C.D. 84 (1926)).

Applicant's arguments with respect to claims 1-30 and 36-40 have been considered but are deemed to be moot in view of the new grounds of rejection.

Applicant's amendment necessitated the new grounds of rejection. Accordingly, THIS ACTION IS MADE FINAL. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

*Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saeed T. Chaudhry whose telephone number is (571) 272-1298. The examiner can normally be reached on Monday-Friday from 9:30 A.M. to 4:00 P.M.*

*If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Michael Barr, can be reached on (571)-272-1414. The fax phone number for non-final is (703)-872-9306.*

*When filing a FAX in Gp 1700, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communication with the PTO that are for entry into the file of the application. This will expedite processing of your papers.*

*Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1700.*

Saeed T. Chaudhry  
Patent Examiner



MICHAEL BARR  
SUPERVISORY PATENT EXAMINER